

The Connecticut Board of Examiners for Opticians held a meeting on Thursday, March 8, 2012 at the Department of Public Health, Capitol Avenue, Third Floor Conference Room, Hartford, CT.

BOARD MEMBERS PRESENT: Linda Conlin, LO, Chairperson
René"Skip" Rivard, LO

BOARD MEMBERS ABSENT: None

ALSO PRESENT: Jeffrey Kardys, Administrative Hearings Specialist/Board Liaison,
Gary Griffin, Practitioner Investigation Unit, DPH;
Maritsa Morales, Licensing and Examination Analyst, DPH;
Alfreda Gaither, Esq., Staff Attorney, Hearing Office, DPH

Chairperson Linda Conlin called the meeting to order at 9:03 a.m.

I. MINUTES – December 7, 2011

- A. Having been previously distributed and reviewed by the members, a reading of the minutes from the regularly scheduled meeting of the Board of Examiners was waived. Motion: Rivard, Second: Conlin. A motion made by Mr. Rivard and seconded by Ms. Conlin was passed to accept the minutes.

II. OLD BUSINESS

- A. **Update: Paul Beckert – Petition Nos. 2008-1105-038-003 and 2010-5674**
[Background: At its meetings of January 28, June 1, Aug. 10, 2011, the Board requested confirmation that Mr. Beckert is not employed as, nor acting in the capacity of an optician. At its meeting of August 10, the Board requested sworn affidavits from both Mr. Beckert and his optometrist employer verifying his job description. It was requested that the documents must confirm that he not acting in any capacity as an optician as described in C.G.S. Chapter 381 or Department of Public Health Regulations. 20-141-1 thru 20-146.]

It was reported that no new information was available regarding Mr. Beckert's compliance with the issued consent order requiring a course in professional ethics. The Board was informed that unless a new complaint was filed with the Department that Mr. Beckert is working as an optician, no further action is required.

B. ABO/NCLE Examination Review

A motion by Rivard and seconded by Conlin was made to table discussion regarding review of the ABO/NCLE examinations.

III. DEPARTMENT OF PUBLIC HEALTH UPDATES

Investigations Update: Gary Griffin, Practitioner Investigation Unit, DPH

- A. Mr. Griffin reported that two (2) cases are under investigation. One (1) case is currently with the legal office. Two cases have been dismissed. Mr. Rivard requested that once cases are dismissed by the Department, they be discussed/presented to the Board.

B. **Examination Update:** *Maritsa Morales, Licensing and Examination Analyst II*

Licensing examination dates were set as follows: Contact Lens, Tuesday, June 5; Eyewear, Tuesday, June 12. Candidate application deadline was set for April 5, 2012. The exams will be held at Middlesex Community College. Mr. Rivard will make the necessary room reservations.

The Board requested that the eyewear candidate answer template and both the candidate and proctor instructions for the practical exams be reviewed at its next meeting.

IV. **LEGAL OFFICE BUSINESS**

A. **Presentation of Consent Order - Matthew Antonetti, Principal Attorney DPH Petition № 2011-1119 - Eileen Petrillo**

Ms. Petrillo, a duly authorized representative from **Characters and Costumes, 260 River Street, Guilford, CT 06437** admitted that during October 2011 she “... engaged in the practice of opticianry and/or practice as an optical establishment without having a valid license and/or permit to do so offering cosmetic contact lenses for retail sale.”

The respondent stipulated the allegations and agreed to cease and desist the practice of opticianry and/or practice as an optical establishment.

After discussion, Mr. Rivard motioned to approve the Cease and Desist Consent Order, seconded by Ms. Conlin. The Order was signed by Chairperson Conlin.

V. **EXAMINATION APPEALS**

A. Two unsuccessful candidates from the November 2011 licensing exam addressed the Board. Both candidates respectfully requested their exam results be reviewed. Mr. Rivard acknowledged that he was familiar with one of the candidates, which would not impact his review of the test scores.

VI. **EXECUTIVE SESSION 9:40 AM**

Mr. Rivard made a motion, seconded by Chair Conlin to go into Executive Session to review and discuss the examination results. The Board came out of Executive Session at 10:25 AM.

The Department will notify the appellants as to the final decision of the Board.

VII. **ADDITIONAL AGENDA ITEMS**

None

ADJOURNMENT

Mr. Rivard made a motion, seconded by Ms. Conlin to adjourn the meeting at 10:26 A.M.

Respectfully submitted,



René R. Rivard
Connecticut Board of Examiners for Opticians

The Connecticut Board of Examiners for Opticians held a meeting on Thursday, May 10, 2012 at the Department of Public Health, Capitol Avenue, Third Floor Conference Room, Hartford, CT.

BOARD MEMBERS PRESENT: Linda Conlin, LO, Chairperson
René"Skip" Rivard, LO

BOARD MEMBERS ABSENT: None

ALSO PRESENT: Jeffrey Kardys, Administrative Hearings Specialist/Board Liaison, DPH; Gary Griffin, Practitioner Investigation Unit, DPH; Maritsa Morales, Licensing and Examination Analyst II, DPH; Steve Carragher, Health Program Supervisor, DPH; Alfreda Gaither, Esq., Staff Attorney, Hearing Office, DPH; Ellen Shanley, Staff Attorney, DPH.

Chairperson Linda Conlin called the meeting to order at 9:08 a.m.

I. MINUTES – March 8, 2012

- A. Having been previously distributed and reviewed by the members, a reading of the minutes from the regularly scheduled meeting of the Board of Examiners was waived. Motion: Rivard, Second: Conlin. A motion made by Mr. Rivard and seconded by Ms. Conlin was passed to accept the minutes.

II. NEW BUSINESS

A. Memorandum of Decision – Larry Lawson Petition No. 2010-5758

After discussion, Chairperson Conlin signed the above referenced memorandum of decision which levied a fine of ten thousand dollars(\$10,000) payable within 30 days of the effective date of this decision. The decision also included a stipulation that failure to pay the civil penalty as ordered will constitute a violation of the MOD and shall result in a suspension of the respondent's licenses until respondent pays the civil penalty. The hearing on the matter was previously conducted by the Board on March 8, 2012.

B. Walmart Optical and Independent Doctors of Optometry - Letter of Concern

An email dated May 9, 2012 from Raymond P. Dennis, LO, [Professor/Coordinator - Ophthalmic Design & Dispensing Program - Middlesex Community College] expressed his concern regarding allegations that opticians and apprentices working in various optical establishments located within Walmart . . . *are asked to perform duties of a clerical or optical nature for the Doctors of Optometry that share the retail space.*

The email asserts that such optical personnel are not employees of the independent optometrists. He asserted that State law requires that the optometric practice and the Optical are supposed to be financially independent.

He expressed several concerns: 1) does performing duties for the optometrist from personnel employed by the optical constitute a form of payment from the employer of the optical personnel (Walmart Optical) to the Optometric practice 2) will the apprentice accumulate hours needed to be eligible to apply for licensure while performing duties for the optometrist? 3) who would be liable for the actions of the (optical) employees during the time they are performing services for the optometrist.

After discussion and review of Petition № 2003-0321-003-003; A Cease and Desist Order in re: Wal-Mart Stores, Inc., Chairperson Conlin referred the matter to Gary Griffin for investigation.

III. **DEPARTMENT OF PUBLIC HEALTH UPDATES**

Investigations Update: Gary Griffin, Practitioner Investigation Unit, DPH

- A. Mr. Griffin reported that one (1) case is under investigation. One (1) case is currently with the legal office.
One new OSP was issued to Fichman Eye Center, New Britain and an OSP was reinstated to ELO Optical, Torrington, CT.
Mr. Rivard noted that the OSP for ELO had been inactive for several years. He questioned if optical services had been performed during the period that the permit was inactive. Mr. Griffin will investigate.
- B. Mr. Griffin questioned if Opticians performing Vision Screening at Health Fairs and various other functions fall within the scope of practice.
After discussion , a motion by Rivard, second, Conlin that simple vision screening is with the optician scope of practice, it is a simple subjective assessment of visual acuity and is not a substitute for an eye examination by an optometrist or ophthalmologist.
- C. **Examination Update:** Maritsa Morales, Licensing and Examination Analyst II
Ms. Morales reported candidates scheduled for the upcoming Practical examinations: Eyewear - 22; Contact Lens - 20; State Law - 22.

The Board formally expressed it Thanks to Middlesex Community College for use of its facilities ands equipment to conduct the exams..

IV. **LEGAL OFFICE BUSINESS**

- A. **Motion for Summary Suspension - Ellen Shanley, Staff Attorney DPH
Petition № 2012-198 - Jeffrey Fine**

The motion for suspension was based on attached Statement od Charges, Affidavits and on the Departments information and belief that the continued practice of Jeffrey M. Fine represents a clear and immediate danger to the public health and safety.

After discussion, the above referenced Summary Suspension was signed by Chairperson Conlin

A Hearing Date was scheduled for Thursday, May 17, 2012.

V. **EXAMINATION APPEALS**

- A. Mr. Rivard made a motion, seconded by Chair Conlin to go into Executive Session at 10:04 AM to review and discuss the appeals to results from the last licensing examination.

The Board came out of Executive Session at 11:22 AM.

The Department will notify the appellants as to the final decision of the Board.

VI. **ADDITIONAL AGENDA ITEMS**

None

ADJOURNMENT

Mr. Rivard made a motion, seconded by Ms. Conlin to adjourn the meeting at 11:25 A.M.

Respectfully submitted,



René R. Rivard
Connecticut Board of Examiners for Opticians

The Connecticut Board of Examiners for Opticians held a meeting on Friday, August 17, 2012 at the Department of Public Health, Capitol Avenue, Third Floor Conference Room, Hartford, CT.

BOARD MEMBERS PRESENT Linda Conlin, LO, Chairperson
by Telephone Conference: René”Skip” Rivard, LO

BOARD MEMBERS ABSENT: None

ALSO PRESENT: Mr. Jeffrey Fine, Respondent; Ms. L. Fine; Attorney Donald
at the DPH Gaudreau, representing Mr. Fine;
Gary Griffin, Practitioner Investigation Unit, DPH;
Alfreda Gaither, Esq., Staff Attorney, Hearing Office, DPH;
Ellen Shanley, Staff Attorney, DPH.

- I. A. **CALL TO ORDER -**
Respondent’s Motion to Reopen the Record re: Jeffrey Fine, L.O.
Petition № 2012-198
Chairperson Linda Conlin called the meeting to order at 8:59 a.m.

Chair Conlin recognized Attorney Gaudreau

Attorney Gaudreau reported that at the time of the scheduled Hearing, Mr. Fine had charges pending at the Middletown Superior Court. For those charges he was represented by Attorney James Sulik. Attorney Gaudreau stated that the respondent was under the impression that Attorney Sulik would be representing him before the Board of Examiners for Opticians. Attorney Gaudreau told the Board that Mr. Sulik, “doesn’t do this type of work.”

Attorney Gaudreau requests that the motion to reopen the closed case be granted to allow Mr. Fine his due process.

Chair Conlin recognized Attorney Shanley

Attorney Shanley states that Mr. Fine is *...requesting another bite of the apple*. She explained in detail the lengthy process and procedures required to schedule a hearing. She said that five dates had previously been scheduled. Three hearing dates had been scheduled. Mr. Fine has requested a continuance for the original hearing scheduled in May. The Board granted the continuance and scheduled two dates in June. She rebutted that due process had been satisfied. Therefore the respondent had multiple opportunities to respond to the allegations, which he failed to do.

Attorney Shanley said that although Mr. Fine may have had problems with his other attorney [Sulik], it was not the Board [of Examiners for Opticians] responsibly.

She asked that the Board not set a precedent by allowing the Hearing to be reopened.

Chair Conlin recognized Attorney Gaudreau

Attorney Gaudreau informed the Board that the suspension of Mr. Fine’s license [to practice as an optician] provided him with no livelihood which is a significant right for an individual. He stated that Mr. Fine’s right to be heard should prevail.

Chair Conlin opened the meeting for questions from the Board

Mr. Rivard questioned if Mr. Fine's optical store, Meeting House Opticians, was open for business. Attorney Gaudreau replied that it was his understanding that no patients were being seen, but the front door was unlocked and open for business to sell various items.

Mr. Rivard asked for clarification as to the items being sold. Attorney Gaudreau replied that Mr. Fine and his wife were selling items such as eyeglass frames.

Questioned, Attorney Gaudreau confirmed that no licensed optician was present at the store while the doors were unlocked and open for business.

Chair Conlin asked if there were any closing statements

Attorney Gaudreau requested a relaxation of the rules and again asked the Board to grant the Motion to Reopen.

Chair Conlin thanked all parties present and declared that the Board would render its decision at its meeting currently scheduled for September 12, 2012.

ADJOURNMENT

Ms. Conlin made a motion, seconded by Mr. Rivard to adjourn the meeting at 9:24 A.M.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "René R. Rivard", with a stylized flourish at the end.

René R. Rivard
Connecticut Board of Examiners for Opticians

The Connecticut Board of Examiners for Opticians held a meeting on Thursday, September 12, 2012 at the Department of Public Health, Capitol Avenue, Third Floor Conference Room, Hartford, CT.

BOARD MEMBERS

Linda Conlin, LO, Chairperson

PRESENT:

René "Skip" Rivard, LO

BOARD MEMBERS ABSENT:

None

ALSO PRESENT:

Jennifer Filippone, Section Chief, Practitioner Licensing and Investigations; Jeffrey Kardys, Administrative Hearings Specialist/Board Liaison, DPH; Gary Griffin, Practitioner Investigation Unit, DPH; Maritsa Morales, Licensing and Examination Analyst II, DPH; Steve Carragher, Health Program Supervisor, DPH; Alfreda Gaither, Esq., Staff Attorney, Hearing Office, DPH; Ellen Shanley, Staff Attorney, DPH; Joelle Newton, Staff Attorney, DPH;

Chairperson Linda Conlin called the meeting to order at 9:10 a.m.

I. Minutes

A. May 10, 2012

1. Having been previously distributed and reviewed by the members, a reading of the minutes from the regularly scheduled meeting of the Board of Examiners was waived. A motion made by Mr. Rivard, seconded by Ms. Conlin, was passed to accept the minutes.

B. August 17, 2012

1. The minutes from the scheduled Meeting of August 17, 2012 were read. Motion to accept: Rivard, second: Conlin. Motion Passed

II. New Business

- A. An application to Connecticut Office of Higher Education to begin a program in Ophthalmic Sciences was presented and reviewed. Mr. Rivard applauded the application and expressed his pride that the named project manager is a former student of the Ophthalmic Design & Dispensing Program at Middlesex Community College. The program was simultaneously presented to the CTDHE for review. Discussion followed regarding Regional Accreditation [NEASC] of the College and professional accreditation from the Commission on Opticianry Accreditation [COA]. The Commission on Opticianry Accreditation requires that an opticianry program graduates its first class before it can apply for accreditation.

The Board recognized the application and will await further information as it is reviewed by the Department of Higher Education.

III. Department of Public Health Updates

- A. Investigations Update: *Gary Griffin, Practitioner Investigation Unit, DPH*
1. Mr. Griffin reported that no new petitions have been presented.
 2. An investigation regarding ELO Optical, Torrington, CT was still in progress.
 3. Mr. Griffin reported that there was no action regarding Wal-Mart Optical and Independent Doctors of Optometry, previously presented to the Board and referred to the DPH for investigation [Minutes: Board of Examiners for Opticians: May 10, 2012: New Business: Item II. B]

A copy the email originally referenced at the May meeting of the Board was given to Mr. Griffin.

- B. Examination Update: *Maritsa Morales, Licensing and Examination Analyst II*
1. Ms. Morales reported thirteen candidates passed the recent Eyewear Practical exam, four candidates failed and two applicants did not attend. Thirteen candidates passed the Contact Lens practical exam. Four failed, two did not attend and one candidate left without taking the exam.
 2. Dates for the Fall 2012 Practical Exams were set:
 - a. November 5, Contact Lens;
 - b. November 13, Eyewear.
 - (1) The application deadline of September 7 was set for the Fall 2012 practical exams

IV. Old Business

- A. **Jeffrey M. Fine, L.O. - Petition 2012-198. Respondent's Motion to Reopen the Record.**
1. After a review of minutes from the Board meeting of August 10, 2012 and considerable deliberation, the Board granted the written motion from Staff Attorney Ellen Shanley, to **deny the motion to reopen the Hearing.**
 2. The renewal of the Optical Selling Permit for **Meeting House Opticians** [OSP 0001395] was questioned. The State of Connecticut *elicensing* website showed the permit was renewed, effective 09/01/2012. The Optician of Record is listed as Jeffrey M Fine. At that time, Mr. Fine's license to practice as an Optician was inactive. His license to practice was summarily suspended by the Board on an order dated 10 May 2012. It was the firm opinion of the Board the permit for Meeting House Opticians should not have been renewed with Jeffrey M Fine as the Optician of Record. After discussion the Board suggested that if Mr. Fine is working as an optician at Meeting House, it would constitute unlicensed practice. If an optician is not on the premises at all times to conduct business the optical shop cannot be open to the public.

A brief investigation by the Ms. Filippone confirmed that the permit under Mr. Fine's name had been issued in error. She agreed to investigate.

V. **Legal Office Business**

Cohen's Fashion Optical, Farmington, CT - Petition № 2011-1029
Presentation of Consent Order - Joelle Newton, Staff Attorney

The respondent admitted that from approximately September 2011 through October 2011 the optical shop operated without an optician of record on the permit. The Board was informed that during this time there was an optician present on the premises at all times the store was open.

After considerable discussion regarding the stipulated fine, a motion was made to accept the Consent Order imposing a Reprimand and a One-thousand (\$1,000.00) dollar civil penalty. Motion: Conlin, Second-Rivard, passed unanimously.

VI. **Examination Appeals**

A motion was made by Rivard, second-Conlin at 10:25 a.m. to enter into Executive Session to review examination appeals from two unsuccessful candidates from the May practical licensing exams.

At 10:45a.m. the Board came out of Executive Session. Motion: Conlin, second-Rivard, motion passed unanimously.

The Department will notify the appellants of the decision of the Board.

ADJOURNMENT

Mr. Rivard made a motion, seconded by Ms. Conlin to adjourn the meeting at 11:05 A.M.

Respectfully submitted,

René R. Rivard
Connecticut Board of Examiners for Opticians

The Connecticut Board of Examiners for Opticians held a meeting on Wednesday, December 5, 2012 at the Department of Public Health, Capitol Avenue, Third Floor Conference Room, Hartford, CT.

BOARD MEMBERS

PRESENT:

Linda Conlin, LO, Chairperson
René "Skip" Rivard, LO
Donna K. Bojus (Public Member)

BOARD MEMBERS ABSENT:

None

ALSO PRESENT:

Jeffrey Kardys, Administrative Hearings Specialist/Board Liaison, DPH; Gary Griffin, Practitioner Investigation Unit, DPH; Steve Carragher, Health Program Supervisor, DPH; Alfreda Gaither, Esq., Staff Attorney, Hearing Office, DPH; Deborah Brown, DPH Health Program Assistant; Matthew Antonetti, Esq., Principal Attorney, DPH Legal Office.

Chairperson Linda Conlin called the meeting to order at 9:02 a.m.

Ms. Conlin recognized Ms. Donna K. Bojus and introduced her as the newly appointed Public Member of the Board.

I. Minutes - September 12, 2012

1. The minutes from the scheduled meeting of September 12, 2012 were read. Motion to accept: Bojus, second: Rivard. Motion Passed

II. Department of Public Health Updates

A. Investigations Update - *Gary Griffin, Practitioner, Investigation Unit, DPH*

1. Mr. Griffin said that three investigations are ongoing. He reported that **The Happy Dollar Store** in Fairfield was investigated regarding the sale of non-prescribed (plano) cosmetic contact lens. The store voluntarily removed the product from their inventory. No charges were filed.

Mr. Rivard asked when investigating the sale of non-prescribed plano contacts, attempts be made to determine the source of their illegal distribution.

2. Mr. Rivard asked the investigation status of ELO Optical, Torrington, CT. He reviewed that Board minutes of May 10, 2012 state that an Optical Selling Permit had been reinstated to ELO Optical. Those minutes reflect that the ELO Optical permit had been inactive for several years. It was questioned if it had been operating without a valid OSP.

Mr. Rivard noted that minutes from the Board meeting on September 12, 2012 state that the investigation was ongoing.

Mr. Griffin told the Board that investigation is still in progress.

3. Mr. Rivard also requested the investigation status pertaining to Walmart Optical and Independent Doctors of Optometry. Information was originally presented to the Board at its May 10, 2012 meeting and referred to the DPH for investigation. He also noted that the minutes from the Board meeting of September 12, 2012 reflect that the investigation was ongoing. Mr. Griffin again reported that the investigation was ongoing.

B. Examination Update - *Deborah Brown, Health program Assistant*

1. Ms. Brown reported the examination results for the November 2012 administration.
 - a. Nine candidates applied for the Contact Lens exam. Five candidates passed. Three candidates failed the examination. One candidate did not attend the examination.
 - b. Ten candidates applied for the Eyewear exam. Nine candidates failed. One candidate did not attend the examination.

Discussion followed regarding candidate comments overheard during the exam. The Board expressed its concern for proctor safety should a candidate verbally declare an ignorance regarding the tested subject matter.

Prior to the Spring examinations, the Board will consider an element of its practical exams with regard to proctor safety.

2. The application deadline for the Spring practical license exams was set for April 5, 2013.

III. **Old Business -**

A. Motion for Summary Suspension - *Meeting House Opticians #0001395 / Jeffrey Fine*

1. On behalf of the DPH, Attorney Antonetti presented a **Motion for Summary Suspension** In Re: Meeting House Opticians [Petition 2012-1147]

It was duly noted that neither Mr. Fine nor his representative made an appearance on his behalf.

Discussion followed regarding the Statement of Charges.

Motion to Grant the Summary Suspension: Rivard; Second: Conlin. Motion passed unanimously.

2. As required, a Hearing Date was set. Wednesday, December 12, 2012 at 9:00 AM.

IV. **New Business**

A. Memorandum of Decision - *Jeffrey M. Fine, L.O. - Petition 2012-198.*

1. After discussion and review, a motion was made to revoke Mr. Fine's license to practice as an optician. Motion: Rivard; Second: Conlin; Abstain: Bojus. Motion Passed. The Memorandum of Decision was signed by Chairperson Conlin.

B. Schedule Meeting Dates for 2013

1. Quarterly meeting dates were tentatively set. Meetings will be held at the Department of Public Health and start at 9:00 AM.
 - a. Wednesday, February 27, 2013
 - b. Wednesday, May 8, 2013
 - c. Tuesday, September 10, 2013
 - d. Tuesday, November 26, 2013

V. **Office of Licensure Regulation and Compliance**

A. No Business

VI. **Examination Appeals**

A. No Business

VII. **Additional Agenda Item**

A. No Business

ADJOURNMENT

Ms. Bojus made a motion, seconded by Ms. Conlin to adjourn the meeting at 10:48 A.M. Motion passed.

Respectfully submitted,



René R. Rivard
Connecticut Board of Examiners for Opticians